CHAPTER 117
FORMERLY
HOUSE BILL NO. 76

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO A STANDARD NONFORFEITURE AND VALUATION LAW FOR INSURANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 18, Chapter 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~§ 1111 Valuation for reserves.~~

~~(a) The Commissioner shall annually value or cause to be valued the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this State, except that in the case of an alien insurer such valuation shall be limited to its insurance transactions in the United States, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves. In calculating such reserves, he/she may use group methods and approximate averages for fractions of a year or otherwise.~~

~~(b) In lieu of the valuation of the reserves herein required of any foreign or alien insurer, the Commissioner may accept any valuation made or caused to be made by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard provided in this subchapter and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the Commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.~~

~~(c) (1) *General.* — Every life insurance company doing business in this State shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this State. The Commissioner by regulation shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.~~

~~(2) *Actuarial analysis of reserves and assets supporting such reserves.* —~~

~~a. Every life insurance company, except exempted by or pursuant to regulation, shall also annually include in the opinion required by subsection (c)(1) of this section, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by regulation, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.~~

~~b. The Commissioner may provide by regulation for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this subsection.~~

~~(3) *Requirement for opinion under subsection (c)(2).* — Each opinion required by subsection (c)(2) of this section shall be governed by the following provisions:~~

~~a. A memorandum, in form and substance acceptable to the Commissioner as specified by regulation, shall be prepared to support each actuarial opinion.~~

~~b. If the insurance company fails to provide a supporting memorandum at the request of the Commissioner within a period specified by regulation or the Commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the regulations or is~~

~~otherwise unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the Commissioner.~~

~~(4) *Requirement for all opinions.* — Every opinion required by this subsection shall be governed by the following provisions:~~

~~a. The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1994.~~

~~b. The opinion shall apply to all business in force, including individual and group health insurance plans, in form and substance acceptable to the Commissioner as specified by regulation.~~

~~c. The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on such additional standards as the Commissioner may by regulation prescribe.~~

~~d. In the case of an opinion required to be submitted by a foreign or alien company, the Commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the Commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State.~~

~~e. For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in such regulations.~~

~~f. Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person (other than the insurance company and the Commissioner) for any act, error, omission, decision or conduct with respect to the actuary's opinion.~~

~~g. Disciplinary action by the Commissioner against the company or the qualified actuary shall be defined in regulations by the Commissioner.~~

~~h. Any memorandum in support of the opinion, and any other material provided by the company to the Commissioner in connection therewith, shall be kept confidential by the Commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by regulations promulgated hereunder; provided however, that the memorandum or other material may otherwise be released by the Commissioner with the written consent of the company or to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the Commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.~~

~~(d) The Commissioner may vary the standards of interest and mortality in particular cases of invalid lives and other extra hazards.~~

~~(e) Any insurer which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the Commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided; provided however, that, for the purposes of this subsection, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by subsection (c) of this section shall not be deemed to be the adoption of a higher standard of valuation.~~

~~(f) This section shall not apply to domestic insurers operating on the assessment plan.~~

~~§ 1112 Minimum valuation standards for policies issued prior to operative date of the Standard Nonforfeiture Law.~~

~~(a) This section shall apply to only those policies and contracts issued before the operative date of the Standard Nonforfeiture Law, § 2929 of this title.~~

~~(b) The legal minimum standard for the valuation of life insurance contracts issued before January 1, 1932, shall be the method and basis of valuation applied by this State prior to March 30, 1943, in the valuation of such~~

~~contracts, and for life insurance contracts issued on and after January 1, 1932, shall be the 1 year preliminary term method of valuation, except as hereinafter modified, on the basis of the American Experience Table of Mortality with interest at 31/2% per annum.~~

~~(c) If the premium charged for term insurance under a limited payment life preliminary term policy providing for the payment of all premiums thereon in less than 20 years from the date of the policy, or under an endowment preliminary term policy, exceeds that charged for like insurance under 20 payment life preliminary term policies of the same insurer, the reserve thereon at the end of any year, including first, shall not be less than the reserve on a 20 payment life preliminary term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the end of the premium payment period, equal to the difference between the value at the end of such period of such a 20 payment life preliminary term policy and the full net level premium reserve at such time of such a limited payment life or endowment policy. The premium payment period is the period during which premiums are concurrently payable, under such 20 payment life preliminary term policy and such limited payment life or endowment policy.~~

~~(d) Policies issued on the preliminary term method shall contain a clause specifying that the reserve thereon shall be computed in accordance with the modified preliminary term method of valuation provided for herein.~~

~~(e) Except as otherwise provided in paragraph (2) of subsection (b) of § 1113 of this title for group annuity and pure endowment contracts, the legal minimum standard for the valuation of annuities issued on and after January 1, 1932, shall be McClintock's Table of Mortality Among Annuitants with interest at 4% per annum; however:~~

~~(1) For annuities and pure endowments purchased under group annuity and pure endowment contracts the legal minimum standard may, at the option of the insurer, be the 1971 Group Annuity Mortality Table or any modification of such table approved by the Commissioner, with interest at 5% per annum; and~~

~~(2) Annuities deferred 10 or more years and written in connection with life insurance shall be valued on the same basis as that used in computing the consideration or premiums therefor, or upon any higher standard at the option of the insurer.~~

~~(f) Reserves for all such policies and contracts may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this section.~~

~~§ 1113 Minimum valuation standards for policies issued after operative date of the Standard Nonforfeiture Law.~~

~~(a) This section shall apply to only those policies and contracts issued on or after the operative date of the Standard Nonforfeiture Law, § 2929 of this title, except as otherwise provided in paragraphs (2) and (3) of subsection (b) of this section for group annuity and pure endowment contracts issued prior to such operative date.~~

~~(b) (1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, the minimum standard for the valuation of all policies and contracts to which this section applies shall be the Commissioner's reserve valuation methods defined in subsections (c), (d) and (g) of this section, 3 1/2% interest, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after June 21, 1973, 4% interest for such policies issued prior to July 8, 1980, and 4 1/2% interest for such policies issued on or after July 8, 1980, and the following tables:~~

~~a. For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies — the Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of subsection (e) of § 2929 of this title; the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after the operative date of subsection (e) of the Standard Nonforfeiture Law for Life Insurance as amended and prior to the operative date of subsection (g) of the Standard Nonforfeiture Law for Life Insurance as amended, provided that for any category of such policies issued on female risks, all modified net premiums and present values referred to in this section may be calculated according~~

~~to an age not more than 6 years younger than the actual age of the insured; and for such policies issued on or after the operative date of subsection (g) of the Standard Nonforfeiture Law for Life Insurance as amended:~~

~~1. The Commissioners 1980 Standard Ordinary Mortality Table; or~~

~~2. At the election of the insurer for any 1 or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with 10-Year Select Mortality Factors; or~~

~~3. Any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such policies;~~

~~b. For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies — the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of § 2929(d)(2) of this title, and for such policies issued on or after such operative date the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such policies;~~

~~c. For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies — the 1937 Standard Annuity Mortality Table or, at the option of the insurer, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the Commissioner;~~

~~d. For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts — either:~~

~~(i) The Group Annuity Mortality Table for 1951 or any modification of such table approved by the Commissioner; or~~

~~(ii) At the option of the insurer, the 1971 Group Annuity Mortality Table or any modification of such table approved by the Commissioner in which event 5% interest shall be used in determining the minimum standard for the valuation of such contracts; or~~

~~(iii) At the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts;~~

~~e. For total and permanent disability benefits in or supplementary to ordinary policies or contracts — for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 and 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies;~~

~~f. For accidental death benefits in or supplementary to policies — for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table or any accidental death benefits table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such policies; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the insurer, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies;~~

~~g. For group life insurance, life insurance issued on the substandard basis and other special benefits — such tables as may be approved by the Commissioner.~~

~~(2) Except as provided in paragraph (3) of this subsection, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this paragraph, as~~

~~defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the Commissioners reserve valuation methods defined in subsections (c) and (d) of this section and the following tables and interest rates:~~

~~a. For individual annuity and pure endowment contracts issued prior to July 8, 1980, excluding any disability and accidental death benefits, in such contracts — the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the Commissioner, and 6% interest for single premium immediate annuity contracts, and 4% interest for all other individual annuity and pure endowment contracts;~~

~~b. For individual single premium immediate annuity contracts issued on or after July 8, 1980, excluding any disability and accidental death benefits in such contracts — the 1971 Individual Annuity Mortality Table or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the Commissioner, and 7 1/2% interest;~~

~~c. For individual annuity and pure endowment contracts issued on or after July 8, 1980, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts — the 1971 Individual Annuity Mortality Table or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the Commissioner, and 5 1/2% interest for single premium deferred annuity and pure endowment contracts and 4 1/2% interest for all other such individual annuity and pure endowment contracts;~~

~~d. For all annuities and pure endowments purchased prior to July 8, 1980, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts — the 1971 Group Annuity Mortality Table, or any modification of this table approved by the Commissioner, and 6% interest;~~

~~e. For all annuities and pure endowment purchased on or after July 8, 1980, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts — the 1971 Group Annuity Mortality Table or any group annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the Commissioner, and 7 1/2% interest.~~

~~After June 21, 1973, any insurer may file with the Commissioner a written notice of its election to comply with this paragraph after a specified date before January 1, 1979, which shall be the operative date of this paragraph for such insurer, provided that an insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no such election, the operative date of this paragraph for such insurer shall be January 1, 1979.~~

~~(3) a. The interest rates used in determining the minimum standard for the valuation of: (i) All life insurance policies issued in a particular calendar year, on or after the operative date of subsection (g) of the Standard Nonforfeiture Law for Life Insurance, (ii) all individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1984, (iii) all annuities and pure endowments purchased in a particular calendar year on or after January 1, 1984, under group annuity and pure endowment contracts, and (iv) the net increase, if any, in a particular calendar year after January 1, 1984, in amounts held under guaranteed interest contracts shall be the calendar year statutory valuation interest rates as defined in this paragraph.~~

~~b. 1. The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer one-quarter of 1 percent:~~

~~(i) For life insurance,~~

$$I = .03 + W (R1 - .03) + \frac{W}{2} (R2 - .09);$$

~~(ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement option,~~

~~I = .03 + W (R - .03)~~

~~where R1 is the lesser of R and .09,~~

~~where R2 is the greater of R and .09,~~

~~where R is the reference interest rate defined in this paragraph, a W is the weighting factor defined in this paragraph;~~

~~(iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in (ii) above, the formula for life insurance stated in (i) above shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years and the formula for single premium immediate annuities stated in (ii) above shall apply to annuities and guaranteed interest contracts with guarantee duration of 10 years or less;~~

~~(iv) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in (ii) above shall apply;~~

~~(v) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in (ii) above shall apply.~~

~~2. However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of 1 percent, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) shall be determined for each subsequent calendar year regardless of when subsection (g) of the Standard Nonforfeiture Law for Life Insurance becomes operative.~~

~~c. The weighting factors referred to in the formulas stated above are given in the following tables:~~

1~~. Weighting factors for life insurance:~~

~~Guarantee duration Weighting~~

~~10 or less .50~~

~~More than 10, but not more than 20 .45~~

~~More than 20 .35~~

~~For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;~~

~~2. Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options:~~

~~.80~~

~~3. Weighting factors for other annuities and for guaranteed interest contracts, except as stated in (ii) above, shall be as specified in tables (I), (II) and (III) below, according to the rules and definitions in (IV), (V) and (VI) below:~~

~~(I) For annuities and guaranteed interest contracts valued on an issue year basis:~~

~~Guarantee Weighting factor~~

~~duration for plan type –~~

~~(years) A B C~~

~~5 or less: .80 .60 .50~~

~~More than 5, but not more than 10: .75 .60 .50~~

~~More than 10, but not more than 20: .65 .50 .45~~

~~More than 20: .45 .35 .35~~

~~(II) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (I) above increased by:~~

~~Plan type A B C .15 .25 .05~~

~~(III) For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than 1 year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in (I) or derived in (II) increased by:~~

~~Plan type A B C .05 .05 .05~~

~~(IV) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.~~

~~(V) Plan type as used in the above tables is defined as follows:~~

~~Plan Type A: At any time policyholder may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurer or (2) without such adjustment but in installments over 5 years or more, or (3) as an immediate life annuity, or (4) no withdrawal permitted.~~

~~Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only (1) with adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) without such adjustment but in installments over 5 years or more, or (3) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than 5 years.~~

~~Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than 5 years either (1) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.~~

~~(VI) An insurer may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this subsection, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.~~

~~d. The reference interest rate referred to in subparagraph b. of this paragraph shall be defined as follows:~~

~~1. For all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of~~

~~Moody's Corporate Bond Yield Average — Monthly Average Corporates, as published by Moody's Investors Service, Inc.~~

~~2. For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's Corporate Bond Yield Average — Monthly Average Corporates, as published by Moody's Investors Service, Inc.~~

~~3. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in 2. above, with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average — Monthly Average Corporates, as published by Moody's Investors Service, Inc.~~

~~4. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in 2. above, with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average — Monthly Average Corporates, as published by Moody's Investors Service, Inc.~~

~~5. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average — Monthly Average Corporates, as published by Moody's Investors Service, Inc.~~

~~6. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in 2. above, the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of Moody's Corporate Bond Yield Average — Monthly Average Corporates, as published by Moody's Investors Service, Inc.~~

~~e. In the event that Moody's Corporate Bond Yield Average — Monthly Average Corporates, as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which is adopted by the National Association of Insurance Commissioners and approved by regulation promulgated by the Commissioner, may be substituted.~~

~~(c) Except as otherwise provided in subsections (d) and (g) of this section, reserves according to the Commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and in excess of (1) over (2), as follows:~~

~~(1) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of 1 per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium of the 19-year premium whole life plan for insurance for the same amount at an age 1 year higher than the age at issue of such policy;~~

~~(2) A net 1-year term premium for such benefits provided for in the first policy year.~~

~~Provided, that for any life insurance issued on or after January 1, 1987, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the Commissioners reserve~~

~~valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in subsection (g) of this section, be the greater of the reserve as of such policy anniversary calculated as described in the preceding paragraph and the reserve as of such policy anniversary calculated as described in that paragraph, but with: (i) The value defined in subparagraph (1) of that paragraph being reduced by 15 percent of the amount of such excess first year premium; (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date; (iii) the policy being assumed to mature on such date as an endowment; and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in paragraphs (2) and (3) of subsection (b) of this section shall be used.~~

~~Reserves according to the Commissioner's reserve valuation method for: (i) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums; (ii) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under § 408 of the Internal Revenue Code [26 U.S.C. § 408], as now or hereafter amended; (iii) disability and accidental death benefits in all policies and contracts; and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of the preceding paragraphs of this subsection, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.~~

~~(d) (1) This subsection shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under § 408 of the Internal Revenue Code [26 U.S.C. § 408], as now or hereafter amended.~~

~~(2) Reserves according to the Commissioner's annuity reserve valuation method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.~~

~~(e) (1) In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the effective date of this section, be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (c), (d), (g) and (h) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.~~

~~(2) In no event shall the aggregate reserves for all policies, contracts and benefits be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by subsection (c) of this section.~~

~~(f) Reserves for any category of policies, contracts or benefits as established by the Commissioner may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest~~

~~used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.~~

~~(g) If in any contract year the gross premium charged by any life insurance company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in paragraphs (1) and (3) of subsection (b) of this section.~~

~~Provided, that for any life insurance policy issued on or after January 1, 1987, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subsection shall be applied as if the method actually used in calculating the reserve for such policy were the method described in subsection (c) of this section, ignoring the second paragraph of subsection (c) of this section. The minimum reserve at each policy anniversary of such policy shall be the greater of the minimum reserve calculated in accordance with subsection (c) of this section, including the second paragraph of that subsection, and the minimum reserve calculated in accordance with this subsection.~~

~~(h) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subsections (c), (d) and (g) of this section, the reserves which are held under any such plan must: (1) Be appropriate in relation to the benefits and the pattern of premiums for that plan; and (2) be computed by a method which is consistent with the principles of this standard valuation law; as determined by regulations promulgated by the Commissioner.~~

~~§ 1114 Reduction on premiums.~~

~~(a) Any reduction in minimum reserves effected by any above provision of this subchapter after June 30, 1973, which results in increased availability to insurance companies of funds for investment or expenditure under this title, shall be applied toward a pro rata reduction in premiums for all policyholders of said companies affected by this subchapter.~~

~~(b) The Insurance Commissioner is authorized to promulgate such rules and regulations as necessary to carry this provision into effect.~~

§ 1111 Title and definitions.

(a) This Subchapter III of Chapter 11 to Title 18 of the Delaware Code shall be known as the Standard Valuation Law (the "Act').

(b) For purposes of the Act, the following definitions shall apply on or after the operative date of the valuation manual:

(1) "Accident and health insurance" means contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the valuation manual.

(2) "Appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in Section 1113(b) of this title.

(3) "Company" means an entity, which (A) has written, issued, or reinsured life insurance contracts, accident and health insurance contracts or deposit-type contracts in this State and has at least one such policy in force or on claim or (B) has written, issued or reinsured life insurance contracts, accident and health insurance

contracts, or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance or deposit-type contracts in this State.

(4) "Deposit-type contract" means contracts that do not incorporate mortality or morbidity risks and as may be specified in the valuation manual.

(5) "Life insurance" means contracts that incorporate mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual.

(6) "NAIC" means the National Association of Insurance Commissioners.

(7) "Policyholder behavior" means any action a policyholder, contract holder or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this Act including, but not limited to, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

(8) "Principle-based valuation" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with Section 12 of this Act as specified in the valuation manual.

(9) "Qualified actuary" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.

(10) "Tail risk" means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.

(11) "Valuation manual" means the manual of valuation instructions adopted by the NAIC as specified in this Act or as subsequently amended.

§ 1112 Reserve valuation.

(a) Policies and Contracts Issued Prior to the Operative Date of the Valuation Manual

(1) The Commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this State issued on or after 1968 and prior to the operative date of the valuation manual, except that in the case of an alien insurer such valuation shall be limited to its insurance transactions in the United States. In calculating reserves, the Commissioner may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves required of a foreign or alien company, the Commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any State or other jurisdiction when the valuation complies with the minimum standard provided in this Act.

(2) The provisions set forth in Sections 1114, 1114A, 1114B, 1115, 1115A, 1116, 1117, 1118, 1119, and 1120 of this title shall apply to all policies and contracts, as appropriate, subject to this Act issued on or after 1968 and prior to the operative date of the valuation manual and the provisions set forth in Sections 1121 and 1122 of this title shall not apply to any such policies and contracts.

(3) The minimum standard for the valuation of policies and contracts issued prior to 1968 shall be that provided by the laws in effect immediately prior to that date.

(b) Policies and Contracts Issued On or After the Operative Date of the Valuation Manual

(1) The Commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien company, the Commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any State or other jurisdiction when the valuation complies with the minimum standard provided in this Act.

(2) The provisions set forth in Sections 1121 and 1122 of this title shall apply to all policies and contracts issued on or after the operative date of the valuation manual.

§ 1113 Actuarial opinions of reserves.

(a) Actuarial Opinion Prior to the Operative Date of the Valuation Manual

(1) General. Every life insurance company doing business in this State shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by regulation are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this State. The Commissioner shall define by regulation the specifics of this opinion and add any other items deemed to be necessary to its scope.

(2) Actuarial Analysis of Reserves and Assets Supporting Reserves

(A) Every life insurance company, except as exempted by regulation, shall also annually include in the opinion required by Subsection (a)(1) of this section, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by regulation, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(B) The Commissioner may provide by regulation for a transition period for establishing any higher reserves that the qualified actuary may deem necessary in order to render the opinion required by this section.

(3) Requirement for Opinion Under Section 1113(a)(2). Each opinion required by Section 1113(a)(2) of this title shall be governed by the following provisions:

(A) A memorandum, in form and substance acceptable to the Commissioner as specified by regulation, shall be prepared to support each actuarial opinion.

(B) If the insurance company fails to provide a supporting memorandum at the request of the Commissioner within a period specified by regulation or the Commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the regulations or is otherwise unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the Commissioner.

(4) Requirement for All Opinions Subject to Section 1113(a). Every opinion required by Section 1113(a) of this title shall be governed by the following provisions:

(A) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 2014.

(B) The opinion shall apply to all business in force including individual and group health insurance plans, in form and substance acceptable to the Commissioner as specified by regulation.

(C) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on such additional standards as the Commissioner may by regulation prescribe.

(D) In the case of an opinion required to be submitted by a foreign or alien company, the Commissioner may accept the opinion filed by that company with the insurance supervisory official of another State if the Commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State.

(E) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in the regulation.

(F) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person (other than the insurance company and the Commissioner) for any act, error, omission, decision or conduct with respect to the actuary's opinion.

(G) Disciplinary action by the Commissioner against the company or the qualified actuary shall be defined in regulations by the Commissioner.

(H) Except as provided in Paragraphs (L), (M) and (N) of this subsection, documents, materials or other information in the possession or control of the Department of Insurance that are a memorandum in support of the opinion, and any other material provided by the company to the Commissioner in connection with the memorandum, shall be confidential by law and privileged, shall not be subject to this State's Freedom of Information Act (29 *Del. C.* Ch. 100), shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties.

(I) Neither the Commissioner nor any person who received documents, materials or other information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to Paragraph (H) of this subsection.

(J) In order to assist in the performance of the Commissioner's duties, the Commissioner:

(i) May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to Paragraph (H) of this subsection with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information;

(ii) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(iii) May enter into agreements governing sharing and use of information consistent with Paragraphs (H) to (J) of this subsection.

(K) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in Paragraph (J) of this subsection.

(L) A memorandum in support of the opinion, and any other material provided by the company to the Commissioner in connection with the memorandum, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action required by this section or by regulations promulgated hereunder.

(M) The memorandum or other material may otherwise be released by the Commissioner with the written consent of the company or to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the Commissioner for preserving the confidentiality of the memorandum or other material.

(N) Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.

(b) Actuarial Opinion of Reserves after the Operative Date of the Valuation Manual

(1) General. Every company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this State and subject to regulation by the Commissioner shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are

consistent with prior reported amounts and comply with applicable laws of this State. The valuation manual will prescribe the specifics of this opinion including any items deemed to be necessary to its scope.

(2) Actuarial Analysis of Reserves and Assets Supporting Reserves. Every company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this State and subject to regulation by the Commissioner, except as exempted in the valuation manual, shall also annually include in the opinion required by Section 1113(b)(1) of this title, an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(3) Requirements for Opinions Subject to Section 1113(b)(2). Each opinion required by Section 1113(b)(2) of this title shall be governed by the following provisions:

(A) A memorandum, in form and substance as specified in the valuation manual, and acceptable to the Commissioner, shall be prepared to support each actuarial opinion.

(B) If the insurance company fails to provide a supporting memorandum at the request of the Commissioner within a period specified in the valuation manual or the Commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the Commissioner.

(4) Requirement for All Opinions Subject to Section 1113(b). Every opinion shall be governed by the following provisions:

(A) The opinion shall be in form and substance as specified in the valuation manual and acceptable to the Commissioner.

(B) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual.

(C) The opinion shall apply to all policies and contracts subject to Section 1113(b)(2), plus other actuarial liabilities as may be specified in the valuation manual.

(D) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board or its successor, and on such additional standards as may be prescribed in the valuation manual.

(E) In the case of an opinion required to be submitted by a foreign or alien company, the Commissioner may accept the opinion filed by that company with the insurance supervisory official of another State if the Commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State.

(F) Except in cases of fraud or willful misconduct, the appointed actuary shall not be liable for damages to any person (other than the insurance company and the Commissioner) for any act, error, omission, decision or conduct with respect to the appointed actuary's opinion.

(G) Disciplinary action by the Commissioner against the company or the appointed actuary shall be defined in regulations by the Commissioner.

§ 1114 Computation of minimum standard.

Except as provided in Sections 1114A, 1114B and 1120 of this title, the minimum standard for the valuation of policies and contracts issued prior to the effective date of this Act shall be that provided by the laws in effect immediately prior to that date. Except as otherwise provided in Sections 1114A, 1114B and 1120, the minimum standard for the valuation of all policies and contracts issued on or after 1968 shall be the Commissioners reserve valuation methods defined in Sections 1115, 1115A, 1118 and 1120, 3 1/2% interest, or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after

June 21, 1973, 4% interest for policies issued prior to July 8, 1980, and 4 1/2% interest for all other policies issued on and after July 8, 1980, and the following tables:

(a) For ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in the policies: the Commissioners 1941 Standard Ordinary Mortality Table for policies issued prior to the operative date of § 2929(e) of this title, the Commissioners 1958 Standard Ordinary Mortality Table for policies issued on or after the operative date of § 2929(e) of this title and prior to the operative date of § 2929(g) of this title, provided that for any category of policies issued on female risks, all modified net premiums and present values referred to in this Act may be calculated according to an age not more than 6 years younger than the actual age of the insured; and for policies issued on or after the operative date of § 2929(g) of this title:

(1) The Commissioners 1980 Standard Ordinary Mortality Table;

(2) At the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; or

(3) Any ordinary mortality table, adopted after 1980 by the NAIC, which is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for such policies;

(b) For industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in the policies: the 1941 Standard Industrial Mortality Table for policies issued prior to the operative date of § 2929(f) of this title, and for policies issued on or after the operative date of § 2929(f) of this title, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table adopted after 1980 by the NAIC that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for the policies;

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in the policies: the 1937 Standard Annuity Mortality Table, or at the option of the company, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the Commissioner;

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in the policies: (i) the Group Annuity Mortality Table for 1951 or any modification of the table approved by the Commissioner, (ii) at the option of the company, the 1971 Group Annuity Mortality Table or any modification of such table approved by the Commissioner in which event 5% interest shall be used in determining the minimum standard for the valuation of such contracts, or (iii) at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts;

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts: for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates adopted after 1980 by the NAIC, that are approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for those policies; for policies or contracts issued on or after January 1, 1961 and prior to January 1, 1966, either those tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies;

(f) For accidental death benefits in or supplementary to policies issued on or after January 1, 1966: the 1959 Accidental Death Benefits Table or any accidental death benefits table adopted after 1980 by the NAIC that is approved by regulation promulgated by the commissioner for use in determining the minimum standard of valuation for those policies, for policies issued on or after January 1, 1961 and prior to January 1, 1966, either that table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table for calculating the reserves for life insurance policies; and

(g) For group life insurance, life insurance issued on the substandard basis and other special benefits: tables approved by the Commissioner.

§ 1114A Computation of minimum standards for annuities.

(a) Except as provided in Section 1114B of this title, the minimum standard of valuation for individual annuity and pure endowment contracts issued on or after the operative date of this Section 1114A and for annuities and pure endowments purchased on or after the operative date under group annuity and pure endowment contracts, shall be the Commissioners reserve valuation methods defined in Sections 1115 and 1115A and the following tables and interest rates:

(1) For individual annuity and pure endowment contracts issued prior to July 8, 1980, excluding any disability and accidental death benefits in those contracts: the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the Commissioner, and 6% interest for single premium immediate annuity contracts and 4% interest for all other individual annuity and pure endowment contracts;

(2) For individual single premium immediate annuity contracts issued on or after July 8, 1980, excluding any disability and accidental death benefits in those contracts: the 1971 Individual Annuity Mortality Table or any individual annuity mortality table adopted after 1980 by the NAIC that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for these contracts, or any modification of these tables approved by the Commissioner, and 7 1/2% interest;

(3) For individual annuity and pure endowment contracts issued on or after July 8, 1980, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in those contracts: the 1971 Individual Annuity Mortality Table or any individual annuity mortality table adopted after 1980 by the NAIC, that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for those contracts, or any modification of these tables approved by the Commissioner, and 5 1/2% interest for single premium deferred annuity and pure endowment contracts and 4 1/2% interest for all other individual annuity and pure endowment contracts;

(4) For annuities and pure endowments purchased prior to July 8, 1980 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under those contracts: the 1971 Group Annuity Mortality Table or any modification of this table approved by the Commissioner, and 6% interest; and

(5) For annuities and pure endowments purchased on or after July 8, 1980 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under those contracts: the 1971 Group Annuity Mortality Table, or any group annuity mortality table adopted after 1980 by the NAIC that is approved by regulation promulgated by the Commissioner for use in determining the minimum standard of valuation for annuities and pure endowments, or any modification of these tables approved by the Commissioner, and 7 1/2% interest;

(b) After June 21, 1973, any company may file with the Commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1979, which shall be the operative date of this section for that company, provided that a company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no election, the operative date of this section for that company shall be January 1, 1979.

§ 1114B. Computation of minimum standard by calendar year of issue.

(a) The interest rates used in determining the minimum standard for the valuation of the following shall be the calendar year statutory valuation interest rates as defined in this section:

(1) Life insurance policies issued in a particular calendar year, on or after the operative date of § 2929(g) of this title;

(2) Individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1984;

(3) Annuities and pure endowments purchased in a particular calendar year on or after January 1, 1984 under group annuity and pure endowment contracts; and

(4) The net increase, if any, in a particular calendar year after January 1, 1984, in amounts held under guaranteed interest contracts.

(b) Calendar Year Statutory Valuation Interest Rates

(1) The calendar year statutory valuation interest rates, *I*, shall be determined as follows and the results rounded to the nearer 1/4 of 1%

(A) For life insurance:

$$I = .03 + W \cdot (R_1 - .03) + \frac{W}{2} \cdot (R_2 - .09)$$

(B) ~~For single premium immediate annuities~~ and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

$$I = .03 + W \cdot (R - .03)$$

Where R_1 is the lesser of R and .09, R_2 is the greater of R and .09, R is the reference interest rate defined in this section, and W is the weighting factor defined in this section;

(C) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in paragraph (B) of this subsection, the formula for life insurance stated in paragraph (A) of this subsection shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years and the formula for single premium immediate annuities stated in paragraph (B) of this subsection shall apply to annuities and guaranteed interest contracts with guarantee duration of 10 years or less;

(D) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in paragraph (B) of this subsection shall apply.

(E) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in paragraph (B) of this subsection shall apply.

(2) However, if the calendar year statutory valuation interest rate for a life insurance policy issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than 1/2 of 1%, the calendar year statutory valuation interest rate for the life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined in 1979) and shall be determined for each subsequent calendar year regardless of when § 2929(g) of this title becomes operative.

(c) Weighting Factors

(1) The weighting factors referred to in the formulas stated above are given in the following tables:

(A) Weighting Factors for Life Insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;

(B) Weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options: .80.

(C) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in paragraph (B) of this subsection, shall be as specified in items (i), (ii) and (iii) below, according to the rules and definitions in items (iv), (v) and (vi) below:

(i) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type A	B	C
5 or less:	.80	.60	.50
More than 5, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

(ii) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in item (i) above increased by:

Plan Type	A	B	C
	.15	.25	.05

(iii) For annuities and guaranteed interest contracts valued on an issue year basis (other than those with no cash settlement options) that do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis that do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in item (i) or derived in item (ii) increased by:

Plan Type	A	B	C
	.05	.05	.05

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guaranteed duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(v) Plan type as used in the above tables is defined as follows:

Plan Type A: At any time policyholder may withdraw funds only (l) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) without an adjustment but installments over five years or more, or (3) as an immediate life annuity, or (4) no withdrawal permitted.

Plan Type B: Before expiration of the interest rate guarantee, policyholder may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) without an adjustment but in installments over five years or more, or (3) no withdrawal permitted. At the end of interest rate guarantee, funds may be withdrawn without an adjustment in a single sum or installments over less than five years.

Plan Type C: Policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either (1) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(vi) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this section, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(d) Reference Interest Rate

(1) The reference interest rate referred to in subsection (b) of this Section 1114B shall be defined as follows:

(A) For life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year preceding the year of issue, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(B) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(C) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in paragraph (B) of this subsection, with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(D) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in paragraph (B) of this subsection, with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(E) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(F) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in paragraph (B) of this subsection, the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(e) Alternative Method for Determining Reference Interest Rates. In the event that the monthly average of the composite yield on seasoned corporate bonds is no longer published by Moody's Investors Service, Inc. or in the event that the NAIC determines that the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate adopted by the NAIC and approved by regulation promulgated by the Commissioner may be substituted.

§ 1115 Reserve valuation method – life insurance and endowment benefits.

(a) Except as otherwise provided in Sections 1115A, 1118 and 1120 of this title, reserves according to the Commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits provided for by those policies, over the then present value of any future modified net premiums therefor. The modified net premiums for a policy shall be the uniform percentage of the respective contract premiums for the benefits such that the present value, at the date of issue of the policy, of all modified net premiums shall be equal to the sum of the then present value of the benefits provided for by the policy and the excess of (1) over (2), as follows:

(1) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of the policy.

(2) A net one-year term premium for the benefits provided for in the first policy year.

(b) For a life insurance policy issued on or after January 1, 1987 for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination in an amount greater than the excess premium, the reserve according to the Commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess premium shall, except as otherwise provided in Section 1118 of this title, be the greater of the reserve as of the policy anniversary calculated as described in the preceding paragraph and the reserve as of the policy anniversary calculated as described in that paragraph, but with (i) the value defined in subsection (a) of that paragraph being reduced by fifteen percent (15%) of the amount of such excess first year premium, (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (iii) the policy being assumed to mature on that date as an endowment, and (iv) the cash surrender value provided on that date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in Sections 1114 and 1114B of this title shall be used.

(c) Reserves according to the Commissioners reserve valuation method shall be calculated by a method consistent with the principles of the preceding paragraphs of this section for:

(1) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;

(2) Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended;

(3) Disability and accidental death benefits in all policies and contracts; and

(4) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of the preceding paragraphs of the subsection,

(5) Notwithstanding the paragraphs in this subsection, any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

§ 1115A. Reserve valuation method – annuity and pure endowment benefits.

(a) This section shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended.

(b) Reserves according to the Commissioners annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in the contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by the contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of the contract, that become payable prior to the end of the respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in the contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of the contracts to determine nonforfeiture values.

§ 1116 Minimum reserves.

(a) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after 1968, be less than the aggregate reserves calculated in accordance with the methods set forth in Sections 1115, 1115A, 1118 and 1119 of this title and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for the policies.

(b) In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the appointed actuary to be necessary to render the opinion required by Section 1113 of this title.

§ 1117 Optional reserve calculation.

(a) Reserves for any category of policies, contracts, or benefits as established by the Commissioner, issued prior to 1968, may be calculated, at the option of the company, according to any standards that produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to that date.

(b) Reserves for any category of policies, contracts or benefits established by the commissioner, issued on or after 1968, may be calculated, at the option of the company, according to any standards that produce greater aggregate reserves for the category than those calculated according to the minimum standard provided herein, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be greater than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided in the policies or contracts.

(c) A company, which adopts at any time a standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided under this Act, may adopt a lower standard of valuation with the approval of the Commissioner, but not lower than the minimum provided herein; provided that, for the purposes of this section, the holding of additional reserves previously determined by the appointed actuary to be necessary to render the opinion required by Section 1113 of this title shall not be deemed to be the adoption of a higher standard of valuation.

§ 1118 Reserve calculation – valuation net premium exceeding the gross premium charged.

(a) If in any contract year the gross premium charged by a company on a policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for the policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for the policy or contract, or the reserve calculated by the method actually used for the policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards stated in Sections 1114 and 1114B of this title.

(b) Provided, that for a life insurance policy issued on or after January 1, 1987 for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination in an amount greater than the excess premium, the provisions of this section shall be applied as if the method actually used in calculating the reserve for the policy were the method described in Section 1115, ignoring the second paragraph of Section 1115 of this title. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with Section 1115, including the second paragraph of that section, and the minimum reserve calculated in accordance with this section.

§ 1119 Reserve calculation – indeterminate premium plans.

(a) In the case of a plan of life insurance that provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of a plan of life insurance or annuity that is of such a nature that the minimum reserves cannot be determined by the methods described in Sections 1115, 1115A and 1118, the reserves that are held under the plan shall:

(1) Be appropriate in relation to the benefits and the pattern of premiums for that plan; and

(2) Be computed by a method that is consistent with the principles of this Standard Valuation Law, as determined by regulations promulgated by the Commissioner.

(b) Notwithstanding any other provision in the laws of this State, a policy, contract, or certificate providing life insurance under such a plan shall be affirmatively approved by the Commissioner before it can be marketed, issued, delivered, or used in this State.

§ 1120 Minimum standard for accident and health insurance contracts.

For accident and health insurance contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under Section 1112(b) of this title. For disability, accident and sickness, accident and health insurance contracts issued on or after 1968 and prior to the operative date of the valuation manual the minimum standard of valuation is the standard adopted by the Commissioner by regulation.

§ 1121 Valuation manual for policies issued on or after the operative date of the valuation manual.

(a) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under Section 1112(b), except as provided under Sections 1121(e) or 1121(g) of this title.

(b) The operative date of the valuation manual is January 1 of the first calendar year following the first July 1 as of which all of the following have occurred:

(1) The valuation manual has been adopted by the NAIC by an affirmative vote of at least 42 members, or 3/4 of the members voting, whichever is greater.

(2) The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by States representing greater than 75% of the direct premiums written as reported in the following annual statements submitted for 2008: life, accident and health annual statements; health annual statements; or fraternal annual statements.

(3) The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least 42 of the following 55 jurisdictions: The 50 States of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico.

(c) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January 1 following the date when all of the following have occurred:

(1) The change to the valuation manual has been adopted by the NAIC by an affirmative vote representing:

(A) At least 3/4 of the members of the NAIC voting, but not less than a majority of the total membership; and

(B) Members of the NAIC representing jurisdictions totaling greater than 75% of the direct premiums written as reported in the following annual statements most recently available prior to the vote in Section 1121(c)(1)(A) of this title: life, accident and health annual statements, health annual statements, or fraternal annual statements.

(2) The valuation manual becomes effective pursuant to a regulation adopted by the Commissioner.

(d) The valuation manual must specify all of the following:

(1) Minimum valuation standards for and definitions of the policies or contracts subject to Section 1112(b) of this title. Such minimum valuation standards shall be:

(A) The Commissioners reserve valuation method for life insurance contracts, other than annuity contracts, subject to Section 1112(b) of this title;

(B) The Commissioners annuity reserve valuation method for annuity contracts subject to Section 1112(b) of this title; and

(C) Minimum reserves for all other policies or contracts subject to Section 1112(b).

(2) Which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in Section 1122(a) of this title and the minimum valuation standards consistent with those requirements;

(3) For policies and contracts subject to a principle-based valuation under Section 1122 of this title:

(A) Requirements for the format of reports to the Commissioner under Section 1122(b)(3) of this title and which shall include information necessary to determine if the valuation is appropriate and in compliance with this Act;

(B) Assumptions shall be prescribed for risks over which the company does not have significant control or influence**.**

(C) Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures.

(4) For policies not subject to a principle-based valuation under Section 1122 of this title the minimum valuation standard shall either:

(A) Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; or

(B) Develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring.

(5) Other requirements, including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules and internal controls; and

(6) The data and form of the data required under Section 1123 of this title, with whom the data must be submitted, and may specify other requirements including data analyses and reporting of analyses.

(e) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the Commissioner, in compliance with this Act, then the company shall, with respect to such requirements, comply with minimum valuation standards prescribed by the Commissioner by regulation.

(f) The Commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in this Act. The Commissioner may rely upon the opinion, regarding provisions contained within this Act, of a qualified actuary engaged by the Commissioner of another State, district or territory of the United States. As used in this paragraph, the term "engage" includes employment and contracting.

(g) The Commissioner may require a company to change any assumption or method that in the opinion of the Commissioner is necessary in order to comply with the requirements of the valuation manual or this Act; and the company shall adjust the reserves as required by the Commissioner. The Commissioner may take other disciplinary action as permitted pursuant to Title 18 of the Delaware Code.

§ 1122 Requirements of a principle-based valuation.

(a) A company must establish reserves using a principle-based valuation that meets the following conditions for policies or contracts as specified in the valuation manual:

(1) Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability

of occurring during the lifetime of the contracts. For polices or contracts with significant tail risk, reflects conditions appropriately adverse to quantify the tail risk.

(2) Incorporate assumptions, risk analysis methods and financial models and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods.

(3) Incorporate assumptions that are derived in one of the following manners:

(A) The assumption is prescribed in the valuation manual.

(B) For assumptions that are not prescribed, the assumptions shall:

(i) Be established utilizing the company's available experience, to the extent it is relevant and statistically credible; or

(ii) To the extent that company data is not available, relevant, or statistically credible, be established utilizing other relevant, statistically credible experience.

(4) Provide margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

(b) A company using a principle-based valuation for one or more policies or contracts subject to this section as specified in the valuation manual shall complete all of the following:

(1) Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual.

(2) Provide to the Commissioner and the board of directors an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. Such controls shall be designed to assure that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation, and that valuations are made in accordance with the valuation manual. The certification shall be based on the controls in place as of the end of the preceding calendar year.

(3) Develop, and file with the Commissioner upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

(c) A principle-based valuation may include a prescribed formulaic reserve component.

§ 1123 Experience reporting for policies in force on or after the operative date of the valuation manual.

A company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

§ 1124 Confidentiality.

(a) For purposes of this section, "confidential information" means all of the following:

(1) A memorandum in support of an opinion submitted under Section 1113 of this Act and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in connection with such memorandum;

(2) All documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in the course of an examination made under Section 1121(f) of this Act; provided, however, that if an examination report or other material prepared in connection with an examination made under Chapter 3 of this title is not held as private and confidential information under Chapter 3 of this title, an examination report or other material prepared in connection with an examination made under Section 1121(f) of this Act shall not be confidential information to the same extent as if such examination report or other material had been prepared under Chapter 3 of this title;

(3) Any reports, documents, materials and other information developed by a company in support of, or in connection with, an annual certification by the company under Section 1122(b)(2) of this Act evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof,

created, produced or obtained by or disclosed to the Commissioner or any other person in connection with such reports, documents, materials and other information;

(4) Any principle-based valuation report developed under Section 1122(b)(3) of this Act and any other documents, materials and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in connection with such report; and

(5) Any documents, materials, data and other information submitted by a company under Section 1123 of this Act (collectively "experience data") and any other documents, materials, data and other information, including, but not limited to, all working papers, and copies thereof, created or produced in connection with such experience data, in each case that include any potentially company-identifying or personally identifiable information, that is provided to or obtained by the Commissioner (together with any experience data, the "experience materials") and any other documents, materials, data and other information, including, but not limited to, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in connection with such experience materials.

(b) Privilege for, and confidentiality of, confidential information

(1) Except as provided in this Section 1124, a company's confidential information is confidential by law and privileged, and shall not be subject to this State's Freedom of Information Act (29 *Del. C.* Ch. 100), shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action; provided, however, that the Commissioner is authorized to use the confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the Commissioner's official duties.

(2) Neither the Commissioner nor any person who received confidential information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential information.

(3) In order to assist in the performance of the Commissioner's duties, the Commissioner may share confidential information:

(A) with other state, federal and international regulatory agencies and with the NAIC and its affiliates and subsidiaries; and

(B) in the case of confidential information specified in Sections 1124(a)(1) and 1124(a)(4) of this title only, with the Actuarial Board for Counseling and Discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal and international law enforcement officials; in the case of (A) and (B), provided that such recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such documents, materials, data and other information in the same manner and to the same extent as required for the Commissioner.

(4) The Commissioner may receive documents, materials, data and other information, including otherwise confidential and privileged documents, materials, data or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions and from the Actuarial Board for Counseling and Discipline or its successor and shall maintain as confidential or privileged any document, material, data or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or other information.

(5) The Commissioner may enter into agreements governing sharing and use of information consistent with this Section 1124(b) of this title.

(6) No waiver of any applicable privilege or claim of confidentiality in the Confidential Information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in Section 1124(b)(3) of this title.

(7) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under Section 1124(b) shall be available and enforced in any proceeding in, and in any court of, this State.

(8) For purposes of Section 1124, "regulatory agency," "law enforcement agency" and the "NAIC" include, but are not limited to, their employees, agents, consultants and contractors.

(c) Notwithstanding Section 1124(b), any confidential information specified in Sections 1124(a)(1) and 1124(a)(4):

(1) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under Section 1113 of this Act or principle-based valuation report developed under Section 1122(b)(3) of this Act by reason of an action required by this Act or by regulations promulgated hereunder;

(2) May otherwise be released by the Commissioner with the written consent of the company; and

(3) Once any portion of a memorandum in support of an opinion submitted under Section 1113 of this Act or a principle-based valuation report developed under Section 1122(b)(3) of this Act is cited by the company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of such memorandum or report shall no longer be confidential.

§ 1125 Single state exemption.

(a) The Commissioner may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in the State of Delaware from the requirements of Section 1121, provided:

(1) The Commissioner has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing; and

(2) The company computes reserves using assumptions and methods used prior to the operative date of the valuation manual in addition to any requirements established by the Commissioner and promulgated by regulation.

(b) For any company granted an exemption under this section, Sections 1113, 1114, 1114A, 1114B, 1115, 1115A, 1116, 1117, 1118, 1119 and 1120 of this title shall be applicable. With respect to any company applying this exemption, any reference to Section 1121 found in Sections 1113, 1114, 1114A, 1114B, 1115, 1115A, 1116, 1117, 1118, 1119 and 1120 shall not be applicable.

§ 1126 Effective Date.

All acts and parts of acts inconsistent with the provisions of this Act are hereby repealed as of 1968. This Act shall take effect as of 1968.

Section 2. Amend Chapter 11, Title 18 of the Delaware Code by re-numbering current Sections 1115 through 1121 as Sections 1127 through 1133, respectively.

Section 3. Amend 2929(f), Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(f) This subsection shall not apply to industrial policies issued on or after the operative date of subsection (g) of this section as defined therein. In the case of industrial policies issued on or after the operative date of this subsection, as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall not exceed 31/2% per annum, except that a rate of interest not exceeding 4% per annum may be used for policies issued on or after June 21, 1973, and prior to July 8, 1980, and a rate of interest not exceeding 51/2% per annum may be used for policies issued on or after July 8, 1980, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding 6 1/2% per annum may be used. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculations of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the Commissioner.

After July 7, 1964, any insurer may file with the Commissioner, a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1968. After the filing of such notice, then upon such date (which shall be the operative date of this subsection for such insurer), this subsection shall become operative with respect to the industrial policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this subsection for such insurer shall be January 1, 1968.

Section 4. Amend 2929(g)(8)f., Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

f. For policies issued prior to the operative date of the valuation manual, any Commissioners Standard ~~Any~~ ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without 10-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table. For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioners Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without 10-year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table. If the Commissioner approves by regulation any Commissioners Standard ordinary mortality table adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

Section 5. Amend 2929(g)(8)g., Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

g. For policies issued prior to the operative date of the valuation manual, any Commissioners Standard ~~Any~~ industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table. For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioners Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table. If the Commissioner approves by regulation any Commissioners Standard industrial mortality table adopted by the NAIC for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

Section 6. Amend 2929(g)(9), Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(9) For policies issued prior to the operative date of the valuation manual, the ~~The~~ nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to 125 percent of the calendar year statutory valuation interest rate for such policy as defined in the standard valuation law, rounded to the nearer one-quarter of 1 percent; provided, however, that the nonforfeiture interest rate shall not be less than 4%. For policies issued on or after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual.

Section 7. Amend Section 2929, Title 18 of the Delaware Code by inserting a new subsection (m) by making insertions as shown by underlining as follows:

(m) For purposes of this Section 2929, the term “operative date of the valuation manual” means January 1 of the first calendar year that the valuation manual as defined in § 1111(b)(11) of this title is effective.

Approved July 27, 2015